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10
11 Friday, May 5th, 2023

12 Witness sworn

13
14 BY MR. LINDSAY:

15 Q. Good morning Karen, I'm Shawn Lindsay.

16 I'm one of the group of attorneys for the measure
17 litigation. This is our opportunity to come ask
18 really if you will questions from the Oregon State
19 Police. I understand you and Wendy have been
20 designated as the people of knowledge for that.

21 Could you please state and spell your name for the
22 regard?

23 A. My name is Karen LeJune

24
25 Q. You've been deposed before?

1 person.

2 Q. So not an approved, denied?

3 A. No.

4 Q. So I understand the Oregon State Police

5 determinations openings are approved, denied,

6 pended delayed. Are those the three. Are there

7 more than that?

8 A. We can also cancel transactions when

9 either the dealer or the purchaser request it to be

10 canceled. Pended and delayed in the FICS unit we

11 kind of use those terms together. In the FICS unit

12 generally when we use that pended or delayed status

13 that means that somebody in the FICS unit has

14 reviewed that transaction initially and it was

15 delayed or pended, so we can do additional research

16 if there's missing or incomplete information.

17 Q. Is there a differences between pended and

18 delayed?

19 A. We use those terms interchangeably.

20 Q. So if you wanted to cut off one of the

21 words and just used pended it's the same thing?

22 A. Yes.

23 Q. If -- well, explain to me what aspect

24 proved, denied and pended delayed means?

25 A. So an approved transaction after

1 reviewing of that background check either
2 automatically or by a person, if there is no
3 disqualify fires that would apply, we can approve
4 that transaction.

5 If we review that transaction and we find
6 either a state or federal prohibitor and that
7 person would be prohibited from receiving a firearm
8 transfer, that person would be denied.

9 And then a background check is pended or
10 delayed when there's incomplete or missing
11 information and the FICS unit will delay that
12 transactions and request the information needed to
13 make a determination from the appropriate agencies.

14 Q. The approved, meaning you issue a unique
15 identifier to the FFL, correct?

16 A. Yes.

17 Q. And denied is it simply a denied
18 responses?

19 A. Yes. At this point in time we will give
20 the dealer the denial we just tell them its denied
21 and we provide it's a NICS transaction number or n
22 t n and that number is different than an approval
23 number.

24 It's a number that can be provided to the
25 person who was denied so they can challenge or

1 A. So every -- basically every day it would

2 -- the date would move to the next day.

3 A. Is that someone -- I understand it moves

4 to the next day, but let's say that the preentered

5 number is 45 days.

6 A. (Nodding head.)

7 Q. Today would be May 5th blues 45 days

8 would be the number that's sent to the dealer; is

9 that correct?

10 A. Yes.

11 Q. And then tomorrow it would be May 6, plus

12 45 days; is that correct?

13 A. Yes.

14 Q. So in that hypothetical the five days who

15 determines that number and how often does it

16 change?

17 A. So I think basically it would come down

18 to management to make that determination?

19 A. I think we have not changed that, the

20 number of days recently.

21 Q. Within the last six months?

22 A. I'm not sure about that.

23 Q. You said it comes down to management who

24 makes that day decision, calculate a day decision.

25 What management would that be?

1 A. Generally it has been somebody in the
2 FICS management. Usually the -- the FICS manager.

3 Q. Would that be we hoped de?

4 A. No.

5 Q. Who's the manager?

6 A. So currently the FICS manager is Steve
7 Duke.

8 Q. Steve Duke.

9 : I think it started at cab bell

10 laws. We've had a couple Robert holes.

11 BY MR. WILSON:

12 Q. So you do give estimates, time estimates
13 when it's in pended and delay. I trust it goes
14 over those estimates sometimes by several days from
15 time to time?

16 A. Yes, that would be a correct assessment.

17 Q. You're smiling a little bit over there?

18 A. Yes.

19 Q. Does that mean it goes way over?

20 A. Currently the length of time is longer.

21 There's times when it's short Terry, but there is
22 times when it could be longer.

23 Q. Why don't you change if the 45 days? I
24 know it might not be exactly 45 days, but the
25 current four to six weeks, why don't you change

1 **that from time to time?**

2 A. So, historically -- and I can't provide
3 an exact, you know time frame or date, we -- the
4 FICS unit used to change that date depending on,
5 you know, what the volume was, you know at that
6 particular time.

7 And partially based on how long it
8 generally would take us to obtain the information
9 needed to make a decision. So that has changed.

10 When we did change the date when we started getting
11 you know longer backlogs, the dealers would provide
12 feedback on, you know, why, why are you increasing
13 that.

14 So basically we just left it kind of
15 where it was. Historically what we used to do is
16 when it got closer to that day and then Your Honor
17 on that date if we weren't going to complete the
18 research in order to be able to provide our
19 determines to the dealer we called the dealer and
20 extended the date again.

21 Q. For all of the background checked that
22 are eventually approved, I understand there's an
23 initial approval an pended delay station that
24 eventually convert into approval, I'm talking about
25 initial approval an eventually approved so all of

1 **you provide a number to the dealer that dealer may**
2 **give it to the denied person an and that person can**
3 **either call or meal asking for an explanation; is**
4 **that correct?**

5 A. That -- that would be their openings to
6 either call or email. We've asked that the dealers
7 provide the email address so the denied person gets
8 a call back faster.

9 **Q. And how long does that take for the**
10 **denied person to get a response to per either email**
11 **or phone call?**

12 A. That turn around time can vary, but we
13 have assigned a person in the figured unit to
14 return those calls throughout the day. So at the
15 end of the day of we've received an email from a
16 person, you know, hopefully they would have
17 received a call back.

18 **Q. So, same day?**

19 A. Yeah, that is our goal. So we assign --
20 you know that's what that persons assignment is for
21 that day to return those calls.

22 **Q. What about someone who's been pended or**
23 **delayed? Same options, phone call an email?**

24 A. So there's a different email. It's a
25 generic email. So as a PO C state our requirement

1 is that we have to respond to people who have been
2 denied within I believe it's five days. There's
3 not a requirement as a PO C to necessarily return
4 calls for somebody who has just been delayed or
5 just has a question.

6 So because of the workload, we haven't
7 been returning the calls for those who have been
8 delayed.

9 BY MR. LINDSAY:

10 Q. I've experienced that. So that's a
11 uniform decision, no return calls no return emails
12 to people who are delayed?

13 A. Generally -- like, if they call the --
14 the challenge line number or sends an email,
15 basically at this point in time we haven't been
16 returning those calls just because of the workload.
17 You know we've prioritized processing background
18 checked over calling those people back who have
19 been delayed?

20 A. .

21 Can I add to that?

22 Q. Yes.

23 A. So historically -- I'll just go back to,
24 like, July of 2019. The FICS unit at that point in
25 time with the staff that we had available to work

1 in the unit and the workload, we were calling back

2 all of those calls or emails that we received.

3 Our goal was to do it within 24 hours.

4 And during that time period, you know, we were able

5 to meet that goal and at least return their phone

6 call. So:

7 **Q. Who made that decision not to respond to**

8 **pended delayed t delay transactions?**

9 A. Generally it would be FICS management,

10 including the FICS manager and there could have

11 also have been discussions with upper management.

12 You know, so, you know I can't tell you like who

13 would have been involved with those discussions or

14 at what point those discussions were had.

15 **Q. One over the reasons that I've seen in**

16 **the program over views for the long time frame for**

17 **pended delay to be processed is responding to**

18 **pended delay calls or challenge calls.**

19 It seems maybe a little inconsistent if

20 we're not responding to delay calls, I see some

21 inconsistencies there. Could you maybe clarify

22 that for me?

23 A. Can you repeat the question.

24 **Q. Yeah, so based on what I've reviewed in**

25 **preparation for today one of the reasons for**

1 and adjusting our staff to whatever the priority
2 might change to.

3 Q. **Do you have any deadlines or time**

4 **requirements to resolve the pended delay folks that**
5 **are in the queue?**

6 A. So the FICS unit we process all of the
7 transactions we receive in the order that we
8 receive them. So if they're just coming into the
9 queue we work on the oldest received. And there's
10 a statute that says that we have to respond within
11 30 minutes, but outside of that if somebody is
12 delayed for us to obtain initial information and
13 documents to make a decision, **the FICS unit does**
14 **not currently have a decline on when that needs to**
15 **be completed.**

16 So the FICS unit will continue to follow
17 up on obtaining the information needed until we can
18 reach a determination if the queue was long enough
19 it could be months or everyone years?

20 A. That could be a possible length of time,
21 yes, under our current backlog.

22 Q. **If background checked -- if more**
23 **background checks were to be approved automatically**
24 **let's say it went from 38 percent to 75 percent,**
25 **that would be less challenge calls; is that**

1 disconnected, but that -- I don't know exactly what
2 that ample would be.

3 **Q. And you were having those communications**
4 **with dealers right arrest rounds when ballot**
5 **measure 114 passed in November of 2022, correct?**

6 A. And since, since that time.

7 **Q. Since that time.**

8 A. Yes.

9 MR. WILSON: That's all I have.

10 (Deposition concluded 12:00)

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